

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

JOSEPH ARCHAMBAULT,

Plaintiff

v.

LIBERTY LIFE ASSURANCE COMPANY OF  
BOSTON

Defendant

Civil Action No. 05-11762-NG

**DEFENDANT'S MOTION FOR SUMMARY JUDGMENT**

Defendant, Liberty Life Assurance Company of Boston ("Liberty Life"), moves pursuant to Fed. R. Civ. P. 56 for summary judgment on Plaintiff's two-count Complaint on the grounds set forth in the supporting memorandum of law and statement of undisputed material facts which establish that there are no material facts in dispute and that Liberty Life is entitled to judgment as a matter of law. Defendant submits a supporting memorandum, a statement of undisputed facts, the Declaration of Paula McGee, and the agreed-upon administrative record previously filed with the Court on April 14, 2006,<sup>1</sup> in support of its motion. As set forth in detail in its supporting memorandum, Defendant is entitled to judgment on Plaintiff's Complaint because the decision to deny Plaintiff's appeal of his long-term disability benefits was reasonable and was not "arbitrary and capricious."

For this reason, Defendant respectfully submits that summary judgment should enter on its behalf on Plaintiff's Complaint, and that it be awarded all costs and fees awardable to it under ERISA.

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<sup>1</sup> Because of the size of the administrative record, counsel was advised by the Court's staff in April, 2006, to submit that record as a hard copy, rather than electronically. Prior to filing this motion, counsel confirmed that another copy of that record need not be filed in connection with this motion.

**Certification Pursuant To Local Rule 7.1(A)(2)**

The undersigned Counsel for Defendant hereby certifies that he conferred with Plaintiff's counsel, including participation in a Court-referenced mediation on June 29, 2006, in an effort to resolve or narrow the issues encompassed by this Motion, but that the Parties were unable to resolve or narrow the issues in this Motion.

**Request for Oral Argument**

Defendant respectfully requests oral argument on this motion in order to assist the Court's focus on the factual record and the legal issues presented.

Respectfully submitted,

LIBERTY LIFE ASSURANCE COMPANY OF  
BOSTON,

By its attorneys,

/s/Guy P. Tully

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August 18, 2006

**CERTIFICATE OF SERVICE**

I hereby certify that on August 18, 2006, a copy of the foregoing was served by electronic mail and through the ECF system on Plaintiff's counsel.

/s/ Guy P. Tully  
Jackson Lewis LLP